

the Police Omnibus Act of 1966 (Ch. 203, Acts of 1966), which made the Police Department of Baltimore City "an agency and instrumentality of the State of Maryland". Cf., Art. 82, §2: "No...liability shall be incurred by any ... city unless the authorities thereof ... shall have had notice of the {riot} in time to prevent ... injury or destruction, either by its own police or with the aid of {its} citizens..." (emphasis added).

The second clause of the second sentence of present §9-102(b) defines "police officer" as including "all persons charged with law enforcement". That definition is unnecessary in light of §11-147 of this article to the same basic effect.

The last sentence of present Art. 66 1/2, §9-102(b), which requires "{t}he fiscal officers ... {to} pay all just claims ...or judgments ... from funds within their control ...", also is deleted as unnecessary.

The only other changes are in style.

As to subsection (b) of this section, the Commission questions the reference to the doctrine of "last clear chance" as a "defense". "Last clear chance" is a doctrine invoked by a plaintiff to avoid the consequences of his own contributory negligence; it is not a defense available to a defendant. It may be that the General Assembly intended to refer to the "assumption of risk" doctrine that is available to a defendant. In any event, the Commission is uncertain as to why the General Assembly did not simply provide here that this State or the political subdivision may use any legal defense normally available to defendants in a tort action.

19-102. LIABILITY FOR COMMANDEERED VEHICLES USED IN A ROAD BLOCK.

(A) DIRECTING PARTICIPATION IN ROAD BLOCK PROHIBITED.

A POLICE OFFICER MAY NOT DIRECT ANY DRIVER, COWNER, OR PASSENGER OF A MOTOR VEHICLE, OTHER THAN A POLICE VEHICLE, TO PARTICIPATE IN A ROAD BLOCK.

(B) LIABILITY FOR DAMAGES AND INJURIES.

IF ANY POLICE OFFICER OF THIS STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE, WHILE OTHERWISE ACTING WITHIN THE SCOPE OF HIS AUTHORITY IN ENFORCING ANY LAW, DIRECTS